Bukit Mertajam to Singapore who told him that the contents were Chinese medicine was "an incredible one".

Finally we were in no doubt that on all the evidence before them the trial judges were justified in finding the appellant guilty as charged and for all these reasons we dismissed the appeal.

Appeal dismissed.

Solicitors: *N.C. Goho & Co.*

TAN ANNA v. LAWRENCE AU POH WENG

[A.C.J. (Kulasekaram J.) May 6, 1981]

[Singapore — District Court Civil Appeal No. 13 of 1975]

Family Law — Maintenance order — Petition for divorce — Finding by High Court that parties were not married — Rescission of maintenance order — Women's Charter (Cap. 47), ss. 60 & 62(1).

In this case in January 1973 by a maintenance order made under section 60(1) of the Women's Charter by a Magistrate's Court, the respondent was ordered to pay the appellant a monthly maintenance of $150 until the order was varied or discharged according to law. In March 1973 the respondent presented a petition to the High Court for divorce against the appellant and on August 2, 1974 the court decided that it had no jurisdiction to grant a divorce on the grounds that the parties were not married. In December 1974 the respondent made an application to a Magistrate's Court to rescind the maintenance order on the ground that the High Court in the divorce proceedings had found that the parties were not married to one another.

Held: the finding by the High Court that the parties were not married was sufficient ground to satisfy a Magistrate's Court to act under section 62(1) to rescind a maintenance order made under section 60(1).

DISTRICT COURT APPEAL.

K.S. Rajah (Director of Legal Aid) for the appellant.

Dr. Thio Su Mien (*Sia Moon Joon* with her) for the respondent.

Cur. Adv. Vult.

Kulasekaram J.: In January 1973 by a maintenance order made under section 60(1) of the Women's Charter (Cap. 47) by a Magistrate's Court, the respondent Lawrence Au Poh Weng was ordered to pay monthly to the appellant Tan Anna $150 from February 1, 1973 for the appellant's maintenance until the order is varied or discharged according to law.

In March 1973 the respondent presented a petition to the High Court for divorce against the appellant. On August 2, 1974 after hearing the parties D'Cotta J. decided that the High Court had no jurisdiction to grant a divorce on the ground that the parties were not married and accordingly made no order on the petition.

In December 1974 the respondent made an application to a Magistrate's Court under section 62(1) of the Women's Charter to rescind the maintenance order on the ground that the High Court in the divorce proceedings had found that the parties were not married to one another. On March 25, 1975, after hearing the parties the Magistrate rescinded the maintenance order as he was satisfied that the finding of the High Court that the parties were not married was sufficient good cause within the meaning of section 62(1) of the Women's Charter for him to discharge the maintenance order.

The appellant Tan Anna now appeals. The result depends on the true construction of section 60(1) and section 62(1) of the Women's Charter. Section 60(1) reads: —

"60.—(1) Any married woman whose husband —

(a) has been convicted of any offence under Chapter XVI of the Penal Code against her or any of her children;

(b) has deserted her;

(c) has neglected to provide reasonable maintenance for her and her children whom he is liable to maintain;

(d) has treated her or any of her children with cruelty;

(e) is a habitual drunkard; or

(f) is living in adultery with another woman,

may apply to a District Court or Magistrate's Court and such court on due proof thereof may order the husband of such married woman to make a monthly allowance for her maintenance in proportion to his means as to the court seems reasonable."

Section 62(1) reads: —

"62.—(1) On the application of any person receiving or ordered to pay a monthly allowance under this Part and on proof of a change in the circumstances of such person, his wife or child, or for other good cause being shown to the satisfaction of the court, the court by which such order was made may rescind the said order or may vary it as it deems fit."

Section 60(1) deals with the status of marriage. The expressions used are "married woman" and "whose husband". Section 62(1) also deals with the status of marriage. It deals with a change of circumstance of a person who has been ordered to pay maintenance under section 60(1) to his "wife" and confers jurisdiction on a Magistrate to rescind a maintenance order for good cause shown to the satisfaction of the court.

In the present case the High Court, in divorce proceedings in which the appellant and respondent are the parties, has held that they were not married. In my judgment that finding is sufficient good cause to satisfy a Magistrate's Court for it to act under section 62(1) to rescind a maintenance order made under section 60(1). It is plain that the foundation for the making of a maintenance order under section 60(1) is that the appellant is married to the person against whom she is seeking an order for maintenance.

Accordingly, the appeal must be dismissed with no order as to costs.

Appeal dismissed.

Solicitors: *Chor Pee & Co.*